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9 UNITED STATES DISTRICT COURT

10 DISTRICT OF NEVADA

11 MULTIBANK 2009-1 RES-ADC  
12 VENTURE, LLC, a Delaware limited liability  
company;

13 Plaintiff,

14 v.

15 DAVID A. GARRETSON, an individual; and  
16 KELLY A. MUSLER, an individual;

17 Defendants.

Case No.: 2-10-cv-1396

JOINT DISCOVERY PLAN

(SPECIAL SCHEDULING REVIEW  
REQUESTED)

18 Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure ("FRCP") and Local Rule  
19 26-1, Multibank 2009-1 RES-ADC Venture, LLC and Defendant Kelly A. Musler, by and  
20 through their respective counsel of record, hereby submit this joint Rule 26(f) Report  
21 ("Discovery Plan").<sup>1</sup>

22 I. DISCOVERY PLAN [Rule 26(f)(3)(B)]

23 Plaintiff caused the real property at issue in this case to be sold at a trustee's sale on  
24

25 <sup>1</sup> As of the date of filing this Joint Discovery Plan, David A. Garretson has not been personally  
26 located for service and has therefore not answered the Complaint. Plaintiff has located the  
27 address of 281 East Ford Avenue, Las Vegas, Nevada, which is believed to be Mr. Garretson's  
28 current home address. However, despite multiple attempts, Plaintiff has been unable to effect  
service upon Mr. Garretson to date. If Plaintiff's current stakeout efforts are also to no avail,  
Plaintiff will filing a motion with the Court to request alternate means of service and additional  
time to do so.

November 30, 2010 (after the filing of this lawsuit), the proceeds of which did not satisfy the indebtedness allegedly owed to Plaintiff. The claims currently before the court must therefore be amended and supplemented to reflect this change of circumstances and to seek a deficiency judgment. Discovery will be needed for all issues related to Plaintiff's anticipated claim for a deficiency judgment, and is expected to take approximately 180 days from the time the first Defendant answers the amended and supplemental complaint.

To facilitate such discovery, the parties have agreed to the following:

Plaintiff will provide a proposed amended and supplemental complaint to Defendants' counsel by December 10, 2010, for counsel's consideration as to whether the parties can stipulate to its filing.<sup>2</sup>

Defendants' counsel shall have until December 17, 2010 to either stipulate to the filing of the amended and supplemental complaint or refuse such stipulation and require that a motion be brought before the Court.

Provided a stipulation is reached, Defendant shall have until January 6, 2011 or 14 days after the actual filing of the same, whichever is later, to answer or otherwise respond to the Complaint in light of the holidays.

Regardless of whether a stipulation is reached, counsel agree that the discovery deadlines set forth below shall be based on a response deadline of January 6, 2010.

## **II. INITIAL DISCLOSURES [Rule 26(f)(3)(A)]**

The parties agree that no changes should be made to the form or requirement for disclosures under FRCP 26(a), but that the timing of such disclosures shall be made on or before January 20, 2011. The parties' respective disclosures will identify a list of potential witnesses, documents or categories of documents available for inspection, and categories of damages.

### **A. Discovery Cut-Off (LR 26-1(e)(1)): July 5, 2011**

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<sup>2</sup> The stipulation or motion necessary to file Plaintiff's amended and supplemental complaint will also seek to substitute the real party in interest as Plaintiff, as the currently named Plaintiff transferred all of its rights title and interest in the subject loan to RES-NV Clark, LLC, its wholly owned subsidiary.

1 **III. DISCLOSURE OR DISCOVERY OF ELECTRONICALLY-STORED**  
2 **INFORMATION [Rule 26(f)(3)(C)]**

3 The parties are unaware of any issues regarding the disclosure or discovery of  
4 electronically-stored information at this time.

5 **IV. OTHER MATTERS**

6 A. Claims of privilege or protection [Rule 26(f)(3)(D)]

7 The parties are unaware of any issues requiring a protective order at this time.

8 B. Amending pleadings and adding parties [LR 26-1(e)(2)]: April 6, 2011

9 C. Expert disclosures [LR 26-1(e)(3)]

10 1. Initial Expert Disclosures: May 6, 2011

11 2. Rebuttal Expert Disclosures: June 6, 2011

12 D. Dispositive Motions [LR 26-1(e)(4)]: August 4, 2011

13 E. Joint Pre-Trial Order [LR 26-1(e)(5)]: September 2, 2011. In the event  
14 dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until  
15 thirty (30) days after decision of the dispositive motions or further order of the court.

16 DATED this 3rd day of December 2010. DATED this 3rd day of December 2010.

17 LIONEL SAWYER & COLLINS

SHAWN A MANGANO, LTD

18  
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22 **IT IS SO ORDERED**

23  
24 Dated: December 16, 2010.

25   
UNITED STATES MAGISTRATE JUDGE